

Adopted February 25, 2008

**PUBLIC & GOVERNMENTAL PROGRAMS COMMITTEE
MINUTES**

Richard J. Sullivan Center
15C Springfield Rd
New Lisbon NJ
January 28, 2008
11:30 AM

COMMITTEE MEMBERS PRESENT: Stephen Lee, Edward Lloyd, Betty Wilson, Francis Witt (Alternate), Norman Tomasello (Alternate), Paul Galletta (Alternate)

COMMITTEE MEMBERS ABSENT: Candace Ashmun

STAFF PRESENT: John Stokes, Charles Horner, Rhonda Ward, Ernest Deman, David Kutner, John Bunnell, Robert Zampella, April Fijalkowski

GOVERNOR'S AUHTORITIES UNIT REPRESENTATIVE: Sharon Price-Cates

PUBLIC PRESENT: Theresa Lettman, Former Commissioner Mounier, Edward Klump

The meeting was called to order at 11:35 a.m.

1. Approval of Monthly Meeting Minutes for November 26, 2007

Commissioner Galletta moved that the minutes be approved. Commissioner Wilson seconded the motion. The minutes were approved unanimously.

2. Garden State Parkway Widening MOA: Secondary Impacts

A revised letter from the NJ Turnpike Authority (NJTA) dated January 24, 2008 regarding secondary impacts was provided to the Committee. The letter detailed NJTA's concerns regarding Commission staff's recommendations to address secondary impacts resulting from the project that may be inconsistent with the CMP.

John Stokes indicated that Commission staff continued to work with NJTA representatives to ensure that the proposed project was consistent with CMP stormwater management requirements. A meeting was scheduled for February 5, 2008 between Commission staff and NJTA staff to discuss the matter.

John Stokes indicated that Commission staff also continued to work with NJTA staff regarding environmental offsets necessary to demonstrate that the proposed project and any MOA would afford an equivalent level of protection to the resources of the Pinelands, since the proposed project would

be inconsistent with threatened and endangered species standards. He explained that Commission staff had met with NJTA staff to discuss the matter.

David Kutner explained that Commission staff and Matt Gates, a representative with Delaware Valley Regional Planning Commission (DVRPC), met with representatives of the NJTA on January 24, 2008 to discuss NJTA's concerns regarding the Commission staff's recommendations to address secondary impacts that may be inconsistent with the CMP, as a result of the widening project. Commission staff plans to schedule another meeting with the Turnpike Authority staff to discuss the matter shortly.

David Kutner indicated that Commission staff was preparing a response to NJTA's January 24, 2008 letter. He indicated that NJTA's January 24, 2008 letter had been revised to delete all comments relating to a NJ Department of Transportation official, since they were later found to be incorrect. David Kutner reviewed the comments in NJTA's January 24, 2008 letter with the Committee. A brief discussion as to whether NJTA had the authority to use condemnation to acquire properties to address secondary impacts followed. Commission staff indicated that it appeared, based on discussions with the NJ Attorney General's Office, that NJTA would have condemnation authority, if necessary.

David Kutner indicated that at the Committee's November 26, 2007 meeting, to address secondary development impacts that may be inconsistent with the CMP at Interchanges 58 and 69 of the Garden State Parkway, Commission staff recommended that the development rights of identified private, vacant parcels within one mile of the interchanges and having road frontage be restricted to ensure that the development potential of the concerned parcels would not increase as a result of the widening project. In response to Committee comments at its November 26, 2007 meeting, Commission staff provided the Committee with a January 4, 2007 staff memorandum providing a comparative analysis detailing the amount of private, vacant land that fronted roads at varying distances (1/2 mile increments up to 3 miles) from Interchanges 58 and 69.

Commissioner Wilson questioned the basis for DVRPC's rationale used to determine the geographic area (one mile radius around interchanges) analyzed to review secondary impacts. David Kutner indicated that DVRPC utilized national guidelines as the basis for its rationale. John Stokes indicated that Commission staff would ask Matt Gates of DVRPC to provide a more detailed explanation of DVRPC's rationale.

Commissioner Lloyd questioned whether in response to Committee comments at its November 26, 2007 meeting, Commission staff had reviewed whether Commission staff should consider vacant, private lands that did not front roads, in addition to vacant, private lands having road frontage. David Kutner indicated that Commission staff would review the matter further.

The Committee continued to review the comparative analysis detailed in the January 4, 2007 Commission staff memorandum. Based on the analysis, there were approximately 299 acres of private, vacant land with road frontage within one mile of Interchange 69. At 1 1/2 miles, an additional 143 acres would be included. At 2 miles, 38.4 acres would be added. At 2 1/2 miles, approximately 5 acres would be added. At 3 miles, approximately 20 acres would be added. At 5 miles,

approximately 194 acres would be added.

Commissioner Wilson questioned whether Commission staff was tracking and calculating the costs incurred by the Commission establishing the MOA, so that NJTA could reimburse the Commission staff for its time. John Stokes indicated that Commission staff was tracking its time and keeping NJTA updated as to the costs incurred.

3. Existing Atlantic City Airport MOA: Grassland Habitat Issue

Chuck Horner advised that the Committee was provided with copies of two letters dated January 10, 2008 and January 14, 2008 from the SJTA in the Committee packets.

Chuck Horner explained that in 2004, the Commission entered into an MOA with the South Jersey Transportation Authority (SJTA) to allow certain development activities at the Atlantic City Airport parcel that would not be fully consistent with the environmental standards of the CMP, provided measures were taken that would afford an equivalent level of protection to the resources of the Pinelands. He indicated that one of the required measures included the management and protection of certain threatened and endangered species grassland habitat.

Chuck Horner indicated that the two letters provided to the Committee explained that mowing required by the Federal Aviation Administration (FAA) on the Atlantic City Airport parcel was inconsistent with the protection of grassland habitat provided for in the MOA. He explained that approximately 126 acres were being mowed that were not to be mowed according to the MOA. Commission staff was currently in discussion with the SJTA regarding how to resolve the matter. Chuck Horner indicated that it may require an amendment to the existing MOA.

Ernest Deman indicated that the new mowing plan was being required by FAA to reduce bird strikes.

4. Update on Proposed Robert J. Miller Airpark MOA

Chuck Horner explained that information, including a threatened and endangered species report, was submitted on October 11, 2007 by Ocean County regarding a potential MOA with Ocean County regarding the Robert Miller Airpark. The MOA would allow certain development to occur at the Airpark that may not be fully consistent with the standards of the CMP, particularly permitted use and threatened and endangered species standards.

Commission staff provided the Committee with a January 25, 2008 letter from Commission staff to Ocean County regarding the proposed MOA. The letter provided Commission staff's comments on the submitted information and requested the submission of additional information regarding threatened and endangered species and stormwater management on the parcel. Chuck Horner explained that based on the submitted report, a total of 252 acres contained threatened and endangered species critical habitat that would be impacted by the proposed project. Of the 252 acres, approximately 193 acres would be comprised of tree topping only. Chuck Horner further explained that Ocean County had proposed preserving an approximate 400 acre parcel of land as an

environmental offset for the threatened and endangered species impacts that would result from the proposed project.

Rhonda Ward indicated that Ocean County proposed 6 development projects including: a crosswind runway and parallel taxiway construction, 9 airplane “T” hangars and taxi lane construction, a 500 foot shift of the existing runway, tree topping/removal, an apron expansion and pavement maintenance activities. She indicated that the proposed development would impact critical habitat for several threatened and endangered species including: Grasshopper sparrow, Savannah sparrow, Northern pine snake, Corn snake, Sickie-leaved golden aster, Timber rattlesnake and Pine Barrens treefrog. To minimize impacts to threatened and endangered species, Rhonda Ward explained that the County proposed to implement certain construction measures and habitat management projects, in addition to the preservation of land.

Commissioner Galletta questioned whether the FAA mowing directive would be considered by Commission staff and Ocean County when establishing the MOA requirements. Chuck Horner indicated that Commission staff and Ocean County would consider the FAA mowing directive when formulating the MOA.

5. Enforcement Update

Commission staff provided the Committee with a January 28, 2008 memorandum regarding the quantity of violations reported to the Commission from 1997 through 2007. Commissioner Witt questioned the types of violations the memorandum represented. Chuck Horner indicated that the three types of violations most reported to the Commission included: wetlands clearing/filling, vegetation clearing and development without appropriate permits (change of use, commercial expansion, site improvements).

Commissioner Witt questioned whether the Commission had the ability to fine for violations of the CMP. Chuck Horner explained that the Commission did not have any “direct” enforcement authority or the ability to fine. He explained that the most effective method for resolving violations was through cooperation with Pinelands municipalities, since CMP regulations were contained in municipal land use ordinances.

Additionally, Commission staff provided the Committee with a chart detailing certain violation workload activity from 2000 through 2007.

6. NJDEP Fish and Game Council Rule Proposal Regarding Possession of Certain Native Fish Species

The Committee was provided with a copy of a January 18, 2008 letter from Commission staff to the NJDEP regarding the proposed 2008-2009 State Fish Code. John Bunnell explained that in the letter, Commission staff expressed concern regarding the rationale used by NJDEP for a proposed rule indicating that certain sunfish species (Mud sunfish, Blackbanded sunfish, Bluespotted sunfish and Banded sunfish) may not be taken or possessed at any time. Based on data available to Commission

staff, John Bunnell explained that it appeared that the concerned sunfish species were widely distributed and relatively abundant in the region, that the distribution of these fish species was no narrower than the distribution of other common native fish species and there appeared to be little potential that these fish species would be caught by anglers. For these reasons, Commission staff suggested that the proposed NJDEP rule was unnecessary.

7. Other Items of Interest

A discussion of a recent decision by Medford Township that resulted in the preservation of a large tract of land known as Cow Point in Medford, NJ, previously proposed for development, followed. Commissioner Wilson expressed support for the preservation of the tract.

The meeting was adjourned at 1:35 p.m.